RECEIVED
CENTRAL FAX CENTER

OCT 31 2006



## REMARKS

Claims 1 – 86 are pending in this application.

In a Non-Final Office Action mailed July 31, 2006, claims 12 and 30 have been objected to because of informalities. Claims 12 and 30 have been amended to overcome this objection.

Claims 1 – 3, 5, 7, 24 – 26, 28 – 30, 40, 41, 44 – 46, 48, 50, 72, 73, 83, and 84 have been rejected under 35 USC 102(e) as being anticipated by Cocotis et al. (US Parent No. 6,980,964, hereinafter "Cocotis"). Claims 1, 16, 44 and 59 have been amended to clearly distinguish over Cocotis et al. Namely, claims 1 and 16 have been amended to include the limitation that a photographer list of at least one fulfillment center that can fulfill the order is sent by the first processing unit and that the first processing unit receives an order from the photographer processing unit, which order specifies at least one fulfillment center to fulfill the order. Note that the list that goes to the photographer processing unit is designated the "photographer list" to distinguish it from the list that is maintained at the first processing unit. Further, claims 16 and 59 have been amended to clearly indicate that the photographer processing unit selects at least one fulfillment center. This is not new matter, as it was disclosed on page 9, line 3 – 18 and elsewhere in the application. In fact, the original claims 16 and 59 included the limitations of the receipt and display of a list of fulfillment centers. In contrast, Cocotis discloses that the fulfillment center is selected by the market portal (first processing unit). See, for example, col. 7, lines 36 – 44. This is an important distinction between the prior art and the present application.

The fact that the distinction between the photographer selecting the fulfillment center and the market portal selecting the fulfillment center is important is supported by Cocotis et al. At col. 1, line 66 through col. 2, line 22 indicates that prior art prior to Cocotis et al. retained control of the choice of fulfillment center with traditionally-established business relationships. Cocotis, however, places this control with the market portal, and noting the owner of the Cocotis et al. patent, this does not deviate much from the prior art, since the owner of the market portal, which is a traditional big player in the photographic market, controls the selection of fulfillment center. In the system according to the invention, each photographer gets to control the selection of the fulfillment center. This is a much bigger leap forward than Cocotis et al., and the great success of the invention as disclosed in the Declaration of Graham McFarland filed with the previous response shows. For these reasons, claims 1, 16, 44 and 59 are patentable.

Claims 2 – 3, 5, 7, 24 – 26, 28 – 30, 40, 41, 45 – 46, 48, 50, 72, 73, 83, and 84 are also patentable at least for the reason that they depend on a patentable claim and include all its limitations. *In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) at headnote 4. Further, with respect

to claim 24, in Cocotis et al. the parameters are included in the gateway or marketing portal software, not in the request. Likewise, with respect to claims 25, 26 and 28, the parameters are in the gateway software, not the request from the photographer processing unit.

Claims 4, 6, 8 – 14, 31 – 34, 42, 47, 49, 51 – 57, 74 – 77, and 85 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis as applied to claims 1, 7, 29, 30, 44, 50, 72, and 73 above, and further in view of well-known prior art. This rejection is respectfully traversed. All of these claims depend on a patentable claim and are therefore patentable. In addition, all of the rejections are based on the Examiner's opinion of what is well-known art, not references. While these limitations may be known in art somewhat distant from the photographic software art, there no evidence is provided that the specific applications of the limitations are known in the art of the invention. *Ex Parte Noael*, 158 USPQ 237, 239 (POBA 1967) at headnote 2.

Claims 15 – 20, 22, 43, 58 – 63, 65, 67 – 69, 71, and 86 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis as applied to claims 1 and 44 above, and further in view of Arledge, Jr., et al. (US Patent No. 6,535,294, hereinafter "Arledge"). This rejection is respectfully traversed. It is not seen how Arledge is related to the present invention. Arledge presents to the end user fulfillment centers based on the state and country selected by the user. This teaches against the present invention in which the list of fulfillment centers has no relation to the state and country specified by the end user, but rather is related only to the options available at the fulfillment center. Further, once an end user selects a fulfillment center, it is fixed, and does not change. This is done to enhance end user loyalty. Once again, the idea is to control the end user. The end user cannot select a fulfillment center to fulfill a specific order. Nor can the end user select a fulfillment center based on the options available at the fulfillment center. In sum, Arledge does not provide what is missing in Cocotis et al. Thus, claims 15 – 20, 22, 43, 58 – 63, 65, 67 – 69, 71, and 86 are patentable over the combination of Cocotis et al. and Arledge.

Claims 21 and 64 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis and Arledge as applied to claims 20 and 63 above, and further in view of well-known prior art. This rejection is respectfully traversed. All of these claims depend on a patentable claim and are therefore patentable. In addition, all of the rejections are based on the Examiner's opinion of what is well-known art, not references. While these limitations may be known in art somewhat distant from the photographic software art, there no evidence is provided that the specific applications of the limitations are known in the art of the invention. *Ex Parte Noael*, 158 USPQ 237, 239 (POBA 1967) at headnote 2.

RECEIVED
CENTRAL FAX CENTER
OCT 3 1 2006





Claims 23, 66, and 70 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis and Arledge as applied to claims 17, 60, and 67 above, and further in view of Garfinkle et al. (US Patent No. 6,017,157, hereinafter "Garfinkle"). This rejection is respectfully traversed. This rejection is respectfully traversed. All of these claims depend on a patentable claim and are therefore patentable. *In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) at headnote 4.

Claims 27, 35 – 38, and 78 – 81 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis as applied to claims 24, 29, and 72 above, and further in view of Garfinkle. This rejection is respectfully traversed. All of these claims depend on a patentable claim and are therefore patentable. *In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) at headnote 4.

Claims 39 and 82 have been rejected under 35 USC 103(a) as being unpatentable over Cocotis and Garfinkle as applied to claims 35 and 78 above, and further in view of well-known prior art. This rejection is respectfully traversed. All of these claims depend on a patentable claim and are therefore patentable. In addition, all of the rejections are based on the Examiner's opinion of what is well-known art, not references. While these limitations may be known in art somewhat distant from the photographic software art, there no evidence is provided that the specific applications of the limitations are known in the art of the invention. *Ex Parte Noel*, 158 USPQ 237, 239 (POBA 1967) at headnote 2.

In view of the above amendment and remarks, Applicants believe the pending application is in condition for allowance. Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1848, under Order No. 010684.0103PTUS from which the undersigned is authorized to draw.

Respectfully submitted,
PATTON BOGGS LLP

Dated: 10/31/06

By: _____
Carl A. Forest
Registration No.: 28,494
(303) 894-6114
(303) 894-9239 (Fax)
Attorney for Applicants

Customer No. 24283